

**QUARTERLY UPDATE
TO THE LEGISLATURE**

**IMPLEMENTATION OF THE FEDERAL
AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009**

**Quarterly Update #6
October 1, 2010 – December 31, 2010**

Department of Health Care Services

**DEPARTMENT OF HEALTH CARE SERVICES
QUARTERLY UPDATE TO THE LEGISLATURE**

TABLE OF CONTENTS

I.	Purpose of the Update	1
II.	Temporary Increase in Federal Medical Assistance Percentage.	1
III.	Temporary Increase in Disproportionate Share Hospital Allotment.....	2
IV.	Extension of Moratoria on Certain Medicaid Final Regulations	3
V.	Extension of Transitional Medical Assistance	3
VI.	Extension of Qualifying Individual Program.....	3
VII.	Protections for Indians under Medicaid	4
VIII.	Health Information Technology Incentives for Medicaid Providers.....	5
IX.	Income Disregards	6

I. PURPOSE OF THE UPDATE

Under the State Budget Act of 2009, the State Department of Health Care Services (DHCS) is to provide the Legislature with a quarterly update regarding the implementation of the federal American Recovery and Reinvestment Act of 2009 (ARRA) in the Medi-Cal program. The updates shall reflect key issues and fiscal data. This is the sixth quarterly update, which covers the period from October 1, 2010, through December 31, 2010. Updates, as well as a brief description of ARRA requirements, are provided below on each section of ARRA that impacts the Medi-Cal program.

The documents referenced below, as well as prior quarterly ARRA updates, are available in a companion document entitled “ARRA Overview” available on DHCS’ ARRA website:

<http://www.dhcs.ca.gov/formsandpubs/Pages/LegislativeReports.aspx>

II. TEMPORARY FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) INCREASE – ARRA Division B Section 5001

For the recession adjustment period (October 1, 2008, through December 31, 2010), ARRA provides states an across-the-board FMAP increase of 6.2 percentage points and an additional FMAP increase based on states’ unemployment rates. California will receive an 11.59 percent FMAP increase which includes the 6.2 percent across-the-board increase and a 5.39 percent increase for unemployment from October 1, 2008 through December 31, 2010.

On August 10, 2010, President Obama signed the Education, Jobs and Medicaid Assistance Act (P.L. 111-226) into law which includes a six-month extension for the increased FMAP under ARRA Section 5001 through June 30, 2011. The extension for the increased FMAP percentage will be phased down from 11.59 percent to 8.77 percent for the months January to March 31, 2011; then down to 6.88 percent for April to June 30, 2011. We are assuming in FY 2011-12, starting in July 2011, increased FMAP will be completely phased out and the original FMAP match will resume.

The federal Centers for Medicare & Medicaid Services (CMS) authorizes state Medicaid expenditures on a quarterly basis. Each state is notified of its authorization through a grant award letter, which is sent to the state at the start of each quarter. The expenditures authorized through grant award letters are based on a projection of quarterly Medicaid expenditures and can be increased if a state’s actual expenditures exceed projected expenditures. Because the grant award amount is based on an estimate of quarterly spending, it will not equal actual expenditures. Typically, the Medi-Cal program does not fully expend its quarterly grant award. During the recession adjustment period, CMS is issuing two separate grant award letters – one for regular FMAP and one for increased FMAP under ARRA.

Key Fiscal Data:

October 1, 2010 through December 31, 2010:

- DHCS' ARRA grant for the quarter October 2010 through December 2010 authorized expenditures of \$2,357,024,000.
 - DHCS claimed \$1,897,794,172 in increased FMAP during the quarter October 2010 through December 2010.

In total, DHCS claimed \$10,260,765,435 in increased FMAP during the period October 2008 through December 2010.

Status Update:

- By September 30, 2011, states will have to report to the federal Department of Health and Human Services Secretary regarding how additional federal funds were spent.

Prompt Payment for FMAP Increase: Temporarily extends federal requirements for prompt payments to nursing facilities and hospitals, effective June 1, 2009. Prompt payments must be met on a daily basis for the applicable providers.

Status Update:

- DHCS has been compliant with the prompt payment requirements all days during the period October 1, 2010 through December 31, 2010.

III. TEMPORARY INCREASE IN DISPROPORTIONATE SHARE HOSPITAL (DSH) ALLOTMENT – ARRA Division B Section 5002

ARRA provides a temporary increase of 2.5 percent in FFY 2009 (\$26,950,333) and 2.5 percent in FFY 2010 (\$54,574,424) of additional federal funding to the existing DSH Allotment, which is distributed to public and private hospitals that meet certain criteria for the available funding.

Key Fiscal Data:

- For FFY 2009 DSH claimed \$26,950,333.
- California's increased Medicaid DSH allotment for FFY 2010 equals \$54,574,424
- As of December 2010, DHCS has not claimed any ARRA DSH funds for FFY 2010 because the "regular" DSH allotment must be expended before the ARRA DSH can be distributed.

Status Update:

- DSH ARRA is not available for FFY 2011. California's Medicaid DSH allotment is determined as previously calculated under the statute before the enactment of the Recovery Act.

IV. EXTENSION OF MORATORIA ON CERTAIN MEDICAID FINAL REGULATIONS – ARRA Division B Section 5003

ARRA extends through June 30, 2009, the moratorium on four finalized Medicaid regulations pertaining to targeted case management, school-based services, health care provider taxes, and outpatient hospital services. On June 30, 2009, CMS published a final rule rescinding in full the school-based services regulation and the outpatient hospital services regulation and partially rescinding the targeted case management regulation. ARRA also expresses intent that CMS should not promulgate final regulations for graduate medical education, cost limit for public providers, and rehabilitative services. Finally, ARRA bars enforcement of the Outpatient Hospital Services regulation retroactive to December 8, 2008.

Status Update:

- No updates for the period October 1, 2010 through December 31, 2010.

V. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) – ARRA Division B Section 5004

ARRA extends the TMA program, known as Transitional Medi-Cal in California, until December 31, 2010. TMA provides a period of continuing coverage for families who lose Medi-Cal eligibility due to increased earned income. ARRA also provides states two new eligibility options: (1) change the initial six-month eligibility period to 12 months; and (2) waive the requirement that beneficiaries must have received Medicaid in at least three of the last six months period to qualify for TMA.

Status Update:

- The current TMA sunset date has been extended from December 31, 2010 to December 31, 2011 by the Medicare and Medicaid Extenders Act of 2010, Public Law No: 111-309.
- DHCS will submit three quarterly reports to CMS in January 2011 for the report periods from July 2009 through March 2010.

VI. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM – ARRA Division B Section 5005

ARRA extends the QI program one year through December 31, 2010, and provides additional funding for calendar year 2010. The QI program is one of the Medicare Savings Programs developed to pay all of the Medicare Part B premiums for eligible individuals. Certain low-income individuals who are aged or have disabilities, as defined under the Supplemental Security Income (SSI) program, and are eligible for Medicare, are also eligible to have their Medicare Part B premiums paid for by Medicaid under the Medicare Savings Program. Eligible groups include Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs), and Qualifying Individuals (QIs). QMBs have

incomes no greater than 100 percent of the federal poverty level (FPL) and assets no greater than three times the SSI program limit adjusted annually by the Consumer Price Index (this change was made by the Medicare Improvements for Patients and Providers Act of 2008) which was effective January 1, 2010. SLMBs meet QMB criteria except that their incomes are greater than 100 percent of the FPL but do not exceed 120 percent of the FPL. QIs meet the QMB criteria except that their income is between 120 percent and 135 percent of the FPL. Further, they are not otherwise eligible for Medicaid.

Status Update:

- The current Q1 sunset date has been extended from December 31, 2010 to December 31, 2011 by the Medicare and Medicaid Extenders Act of 2010, Public Law No: 111-309.

VII. PROTECTIONS FOR INDIANS UNDER MEDICAID – *ARRA Division B Section 5006*

Premiums and Cost Sharing: ARRA prohibits the use of premium or cost sharing provisions for American Indian beneficiaries who receive Medicaid services directly from the Indian Health Service, an Indian Tribe, a tribal organization, urban Indian organization or through referral under contract health service. ARRA also prohibits the reduction of payments due to these providers by the amount of cost sharing that would have otherwise applied to an Indian.

Status Update:

- No updates for the period October 1, 2010 through December 31, 2010.

Eligibility Provisions: ARRA exempts the ownership of four different classes of property from resources in determining Medicaid eligibility for an Indian. These include certain properties held in trust, certain other properties within the boundaries of a prior reservation, certain ownership interests related to natural resources and certain ownership interests not otherwise specified that have unique religious, traditional or cultural significance that support subsistence or a traditional lifestyle. The All County Welfare Director's Letter 09-26, 2009 American Recovery and Reinvestment Act Protections for Indians under Medi-Cal was issued May 15, 2009.

Status Update:

- No updates for the period October 1, 2010 through December 31, 2010.

Managed Care Provisions: ARRA requires that Indians enrolled in a non-Indian Medicaid managed care entity with an Indian provider participating as a primary care provider within the plan network be allowed to choose the Indian provider as the primary care provider when the Indian is otherwise eligible to receive services from the provider and the Indian provider has the capacity to provide the primary care services.

Status Update:

- No updates for the period October 1, 2010 through December 31, 2010.

Solicitation of Advice under Medicaid: ARRA requires states to seek a state plan amendment (SPA) to include the requirement to seek advice from designees of Indian health programs and urban Indian organizations prior to any SPAs, waiver requests and proposals for demonstration projects likely to directly impact Indians, Indian health programs or urban Indian organizations. This provision may include the appointment of an advisory committee and of a designee of such Indian health programs and urban Indian organization to the medical care advisory committee advising the state on its state plan. This provision is effective July 1, 2009.

Status Update:

- During the reporting period of October 1, 2010 to December 31, 2010, DHCS issued six notices to the Indian health programs, urban Indian organizations, and their designees. The notifications covered a total of 10 SPAs. No waiver notifications were issued this reporting period. DHCS has continued to solicit representatives from Indian health programs to serve as designees. To date, 27 of 38 Indian health programs have appointed a designee.
- On October 23, 2010, the DHCS Director presented to the California Rural Indian Health Board, Inc. regarding state level ARRA implementation.
- DHCS hosted two webinars in November for Indian health program designees and Tribal Chairpersons to provide information and get feedback on the development of the Medi-Cal Indian Health Program advisory process SPA. Additionally, a notice of the proposed SPA was emailed and mailed to Indian health program designees and Tribes for feedback. SPA 10-018, the Medi-Cal Indian Health Program advisory process was submitted for approval on December 22, 2010, with an effective date of October 1, 2010.

VIII. HEALTH INFORMATION TECHNOLOGY (HIT) INCENTIVES FOR MEDICAID PROVIDERS – ARRA Division B Section 4101

The HITECH Act, a component of ARRA, provides investments in HIT infrastructure and Medicare and Medicaid incentives to encourage providers to use Electronic Health Records (EHR) and Health Information Exchange (HIE). The federal government has published the Final Rule for implementation of the Incentive Program.

Key Fiscal Data:

- As of September 2010, DHCS has been awarded a total of \$2.4 million for HIT administrative costs and has expended \$1.4 million.

Status Update:

- The Lewin Group and McKinsey & Company delivered the final initial strategic, campaign and implementation plans for the Medi-Cal EHR Initiative on May 4, 2010, that provide the basis for the DHCS activities promoting HIT/HIE, educating beneficiaries about the benefits of EHR, and coordinating outreach and education activities with the Regional Extension Centers, Managed Care Plans, Independent Physician's Associations and other trade associations. It is estimated the Incentive Program, with payments to more than 10,000 medical providers and 435 hospitals, could positively affect health outcomes for more than seven million beneficiaries.
- The Incentive Program requires a State Medicaid HIT Plan, a five-year HIT roadmap, and an Implementation Advanced Planning Document to operationalize the Medi-Cal EHR Incentive Program. On June 23, 2010, DHCS submitted a HIT Planning – Advanced Planning Document Update (HITP APDU) request to CMS for approval to fund the work necessary to complete the required documents. The request included \$2,979,881 in computable costs at 90 percent federal financial participation and was approved by CMS on September 3, 2010.
- A draft State Medicaid Health Information Technology Plan (SMHP) was submitted to CMS for review and approval on December 3, 2010.
- On December 14, 2010, DHCS submitted an Implementation Advanced Planning Document to CMS, requesting approval to implement core EHR Incentive Program business processes. DHCS is awaiting CMS feedback and approval.

IX. INCOME DISREGARDS - ARRA Division B Sections 2002 (UI Increase), 2201 (SSI Increase), 2202 (Special Government Employee Credit), 6432 (COBRA Benefit)

ARRA provides a one-time emergency payment of \$250 to SSI recipients, Railroad Retirement recipients, and Veterans compensation or pension recipients. Payments are disregarded for the purpose of determining Medi-Cal eligibility. DHCS issued All County Welfare Director's Letters to provide counties with guidance for implementing various payments and credits provided to individuals through ARRA.

Status Update:

- No updates for the period October 1, 2010 through December 31, 2010.